

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

STEVEN C. HEATON,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendant.

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CASE NO. 8:06CV281

ORDER

This matter is before the court sua sponte regarding Case No. 8:06CV2 and Case No. 8:06cv281.

Upon investigation of the court's records the court has determined that the plaintiff filed two complaints which initiated the cases listed above. The cases have overlapping defendants and involve the same subject matter – the defendants' alleged discrimination and retaliation against plaintiff in violation of the Family and Medical Leave Act.

"Plaintiffs may not pursue multiple federal suits against the same party involving the same controversy at the same time." *Missouri ex rel. Nixon v. Prudential Health Care Plan, Inc.*, 259 F.3d 949, 954 (8th Cir. 2001); see also *Curtis v. Citibank, N.A.*, 226 F.3d 133, 138-39 (2d Cir. 2000). Because Case No. 8:06cv2 is the earliest filed case and contains additional claims of discrimination, the plaintiff must consolidate all legal theories into that action. Consequently, this case will be dismissed without prejudice, and the plaintiff may continue with his claims in Case No. 8:06cv2.

THEREFORE, IT IS ORDERED:

1. That the above-entitled case is dismissed without prejudice;
2. That all pending motions are denied as moot; and

3. That a separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 1st day of June, 2006.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge